

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION 199 OF 2022

Priya Girish Gaikwad ... Applicant

V/s.

Sunita Girish Gaikwad ... Respondent

Ms. Sanjukta Dey a/w. Surbhi Agrawal i/b Sagar P. Paspohe for the Applicant.

Ms. Vrushali Maindad a/w. Shaheen Kapadia i/b. Sudarshan Deshmukh for the Respondent.

CORAM : ROHIT B. DEO, J.

DATE : 22nd JUNE 2022

P.C.

1. The applicant is the original defendant in Special Civil Suit 251 of 2020.
2. Special Civil Suit 251 of 202 is instituted by the plaintiff seeking a decree of declaration, injunction, possession and consequential relief.
3. At stake in the suit are the properties left behind by Girish Madhukar Gaikwad. The plaintiff claims to be legally wedded wife of Girish Madhukar Gaikwad.

4. The defendant preferred an application purportedly under the provisions of Order 7 Rule 11 of the Civil Procedure Code, 1908 seeking rejection of the suit plaint.

5. According to the defendant, the plaintiff is falsely claiming to be the wife of Girish Madhukar Gaikwad to whom the defendant is lawfully married. The defendant claims that she married Mr. Girish Madhukar Gaikwad on 16.08.2016 in accordance with the traditions of the Arya Samaj. The defendant further claims that the plaintiff is deriving unadavantage of the similarity between the name of her husband and the name of the deceased husband of the defendant. The defendant contends that the documents which are placed on record along with the suit plaint are 'bogus'.

6. The learned Trial Judge was pleased to reject the application under Order 7 Rule 11 vide order dated 12.11.2021. The learned Trial Judge noted the voluminous documentary material placed on record by the plaintiff and the consideration is in paragraphs 12 and 13. In my considered view, the learned Trial Judge need not have made a painstaking reference to the documents since it is apparent that on plain reading of the plaint holistically, that the issues can only be

adjudicated after the parties adduce evidence. It is well settled that the consideration must be restricted to the plaint averments and the documents which are part of the plaint, and the defence, and indeed even the application Order 7 Rule 11, cannot be looked into while considering whether the plaint is liable to be rejected. Keeping all contentions open for the learned Trial Judge to adjudicate at a proper stage, the petition is dismissed.

(ROHIT B. DEO, J.)